



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2006 MAR 16 PM 2:05

999 18<sup>TH</sup> STREET- SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

FILED  
EPA REGION VIII  
HEARING CLERK

DOCKET NO.: CWA-08-2004-0042

IN THE MATTER OF:

TRAIL'S END SERVICES

RESPONDENT

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)

AMENDED FINAL ORDER

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Amended Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Amended Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Amended Consent Agreement, effective immediately upon receipt by Respondents of this Amended Consent Agreement and Amended Final Order.

March 16, 2006  
DATE

Carol A. LeBoo  
Carol A. LeBoo, Acting  
Regional Judicial Officer

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2006 MAR 14 PM 2:25

FILED  
EPA REGION VIII  
HEARING CLERK

IN THE MATTER OF:

Docket No. CWA-08-2004-0042

Trail's End Services

HC 72 Box 5002

Browning, MT 59417

Respondent.

**MOTION TO AMEND FINAL ORDER AND  
CONSENT AGREEMENT**

Complainant, United States Environmental Protection Agency Region 8 (EPA), by its undersigned attorney, hereby submits a Motion to Amend Final Order and Consent Agreement in the above-referenced matter. Pursuant to the original terms of the Final Order and Consent Agreement, Respondent, Trail's End Services, was required to make four installment payments of one thousand two hundred forty-two dollars and seventy-five cents (\$1242.75). Respondent made the first payment in accordance with the installment schedule, however failed to make the second payment due in September, 2005. Additionally, Respondent has indicated that it is unable to make the third payment due March 15, 2006.

Mr. Frank Augare, Owner of Trail's End Services is currently working with the United States Federal Investigation Bureau (FBI) regarding an embezzlement case involving his business and one of his employees. Complainant has spoken with the FBI and confirmed these unusual circumstances. Complainant is therefore willing to alter the installment schedule in the Consent Agreement. Complainant has attached an Amended Consent Agreement which reflects a revised payment schedule combining the remaining three payments into one payment of \$3,728.75 due and payable by no later than August 1, 2006. (See, paragraph 6.a. of the attached Amended Consent Agreement.)

Therefore, Complainant respectfully requests that the Regional Judicial Officer grant Complainant's Request to Amend the Final Order in this matter to incorporate the terms of the attached Amended Consent Agreement.

Respectfully Submitted this 14<sup>th</sup> day of March, 2006.

Date:

3/14/06

By:

Brenda L. Morris

Brenda L. Morris, Attorney  
Legal Enforcement Program

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the Motion To Amend Final Order and Consent Agreement was hand-carried to the Regional Hearing Clerk, EPA Region 8, 999 18<sup>th</sup> Street, Suite 300, Denver, Colorado, and that a true copy of the same was sent via certified mail to:

Mr. Frank Augare, Registered Agent for  
Trail's End Services  
HC 72 Box 5005  
Browning, MT 59417

March 14, 2006  
Date

Judith McTernan  
Judith McTernan

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

2006 MAR 15 PM 2:31

FILED  
EPA REGION VIII  
HEARING CLERK

IN THE MATTER OF:

Trail's End Services  
HC 72 Box 5002  
Browning, MT 59417

Respondent.

) Docket No. CWA-08-2004-0042

**AMENDED CONSENT AGREEMENT**

Complainant, United States Environmental Protection Agency Region 8 (EPA), and Respondent, Trail's End Services, hereby consent and agree as follows.

1. On, June 2, 2004, Complainant issued to Respondent an Administrative Complaint alleging certain violations of section 311(j) of the Clean Water Act ("CWA" or "the Act"), 33 U.S.C. §1321(j), as amended by the Oil Pollution Act of 1990.
2. This Consent Agreement shall apply to and be binding upon Respondent, its employees, agents, successors and assigns, including, but not limited to, subsequent purchasers.
3. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent. Respondent waives right to a hearing, any defenses they might have as to jurisdiction and venue, and, without admitting or denying the factual allegations contained in the Complaint, consents to the terms of this Consent Agreement.
4. Respondent, by executing this Consent Agreement, hereby certifies to EPA that they are now in compliance with each of the relevant provisions of section 311(j) of the Act, 33 U.S.C. §1321(j).
5. Respondent consents to the payment of a civil penalty in the amount of four thousand nine hundred seventy one dollars (\$4,971.00).

6. Respondent agrees and consents to the following:

a. After Respondent has received the Final Order in this matter, Respondent shall pay a civil penalty of four thousand nine hundred seventy one dollars (\$4,971.00) in two payments in accordance with the following schedule:

1<sup>st</sup> payment of \$1,242.75 is due and must be received by not later than 03/15/05;

2<sup>nd</sup> payment of \$3728.75 is due and must be received by not later than 08/01/06;

by sending certified or cashier's checks, payable to "Oil Spill Liability Trust Fund," with the docket number and Respondent's name written on the check, to:

Donna K. Inman (8ENF-T)  
Technical Enforcement Program  
U.S. EPA Region 8  
999 18th Street, Suite 300  
Denver, CO 80202-2466

The checks shall reference the name and address of Respondent's facility and the EPA docket number of this action.

b. Copies of the cashier's or certified checks shall be sent simultaneously to:

Tina Artemis  
Regional Hearing Clerk (8RC)  
U. S. EPA, Region 8  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

and Brenda L. Morris (8ENF-L)  
Legal Enforcement Program  
U. S. EPA, Region 8  
999 18th Street, Suite 300  
Denver, CO 80202-2466

7. Respondent further agrees and consents that if Respondent fails to make any of the installment payments on the due date specified Respondent shall:

- a. Pay interest of six percent (6%) per annum on any amounts specified in subparagraph 6.a., above, which will begin to accrue from the specified due date;
- b. Pay a handling charge of fifteen dollars (\$15.00) that will be assessed on the 31<sup>st</sup> day and each 30-day period that any amounts specified in subparagraph 6.a., above, are due and unpaid; and
- c. Pay an additional penalty of six percent (6%) per annum that will be assessed on any amounts due and unpaid if payment is not received within 90 days of the due date.

8. All late payments received by Respondent will be applied first to the charges specified in subparagraphs 7. a.- c., above, and next to any unpaid principal amount.

9. Should Respondent fail to make a timely payment in accordance with the installment schedule referenced above, EPA maintains and reserves sole discretion to require Respondent to pay immediately upon notification to Respondent the full amount of the civil penalty four thousand nine hundred seventy one dollars (\$4,971.00) or any portion thereof outstanding plus the handling charge, additional penalty, and interest referenced in subparagraph 7. a. - c., above.

10. The penalty specified in Paragraph 5, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

11. This Consent Agreement constitutes a settlement by EPA of all claims for civil penalties pursuant to the CWA for the violations alleged in the Complaint. Nothing in this Consent Agreement is intended to nor shall be construed to operate in any way to resolve any criminal liability, if any. Compliance with this Consent Agreement shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.

12. Each undersigned representative of the parties to this Consent Agreement certifies that he/she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.

13. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this Consent Agreement.

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY REGION 8  
Office of Enforcement, Compliance  
and Environmental Justice, Complainant.**

Date: 3/14/06

By: Elisabeth Evans  
Elisabeth Evans  
Director  
Technical Enforcement Program

Date: 3/14/06

By: David Janik  
Michael T. Risner, Director  
David Janik, Supervisor  
Legal Enforcement Program

Date: 3/14/06

By: Brenda L. Morris  
Brenda L. Morris, Attorney  
Legal Enforcement Program

**Trail's End Services, Respondent.**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Mr. Frank Augare, Trail's End Services



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EPA LEGAL

In The Matter of: Trail's End Services  
Docket No. CWA-08-2004-0042  
(Continued)

13. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this Consent Agreement.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY REGION 8  
Office of Enforcement, Compliance  
and Environmental Justice, Complainant.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Elisabeth Evans  
Director  
Technical Enforcement Program

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Michael T. Risner, Director  
David Janik, Supervisor  
Legal Enforcement Program

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Brenda L. Morris, Attorney  
Legal Enforcement Program

Trail's End Services, Respondent.

Date: 3-14-06

By: Frank Augare, Trail's End Services  
Mr. Frank Augare, Trail's End Services

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **AMENDED CONSENT AGREEMENT/FINAL ORDER** in the matter **TRAIL'S END SERVICES, DOCKET NO.: CWA-08-2004-0042** was filed with the Regional Hearing Clerk on March 14 and March 16, 2006.

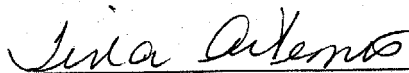
Further, the undersigned certifies that a true and correct copy of the document was delivered to Brenda Morris, Enforcement Attorney, U. S. EPA – Region 8, 999 18<sup>th</sup> Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on March 16, 2006, to:

Mr. Frank Augare  
Registered Agent for  
Trail's End Services  
HC 72 Box 5005  
Browning, MT 59417

And:

Commander – National Pollution Funds Center  
U. S. Coast Guard  
Finance Center (OGR)  
1430 A Kristina Way  
Chesapeake, VA 23326

March 16, 2006

  
Tina Artemis  
Regional Hearing Clerk



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